

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 ROGELIO JUAN GONZALEZ,

14 Defendant.
15
16
17

Case No. 2:88-cr-00031-LDG

ORDER

18 Defendant Rogelio Juan Gonzalez seeks to seal all records (ECF No. 162) relating
19 to his arrest for violating federal narcotics laws and, apparently, the ensuing federal
20 charges filed in this matter.¹ The Government opposes (ECF No. 164).
21

22
23 ¹ In his motion, Gonzalez apparently relies solely upon the information
24 maintained by the FBI's Criminal Justice Information Services, which reports he was
25 charged with "RICO" and "Conspiracy Cocaine." The docket in the present matter indicates
26 that he was charged, in the Second Superseding Indictment, with two counts of
Conspiracy to Launder Monetary Instruments which Represent Proceeds of Narcotics
Trafficking, two counts of Laundering Monetary Instruments which Represent Proceeds of
Narcotics Trafficking, one count of Structuring a Transaction so as to Cause or Attempt to
Cause a Domestic Financial Institution to Fail to File a Report, and one count of Aiding and
Abetting.

1 In his motion, Gonzalez asserts that he was arrested based upon a mistaken identity
2 and that, "[u]pon discovery of the misidentification, the charges were dismissed." He
3 summarily asserts that he "is employed in a position in which a lack of criminal background
4 is significant.

5 "Congress has not expressly granted to the federal courts a general power to
6 expunge criminal records." *United States v. Crowell*, 374 F.3d 790, 793 (9th Cir. 2004).
7 The Ninth Circuit has "asserted that federal courts have inherent authority to expunge
8 criminal records in appropriate and extraordinary cases." *Id.* This expungement power is
9 narrow and appropriately used only in extreme circumstances. *United States v. Smith*, 940
10 F.2d 395, 396 (9th Cir. 1991). Expunction should be exercised only to preserve vital legal
11 rights, such as when an arrest or conviction was unlawful or invalid, or in which the
12 government engaged in misconduct. *Id.*

13 Gonzalez has not shown any factor warranting the exercise of this Court's narrow
14 inherent authority to seal records in appropriate and extraordinary circumstances. He has
15 not offered any evidence that his arrest was unlawful or the result of government
16 misconduct. Rather, he has merely asserted, without citation to any evidence, that he was
17 arrested because of a misidentification, and that the charges were dismissed upon the
18 subsequent discovery of that misidentification. The record, however, indicates that he was
19 prosecuted over a period of more than 18 months. As part of his defense, Gonzalez
20 unsuccessfully moved to dismiss three of the five counts in which he was named. Further,
21 the charges against Gonzalez were eventually dismissed pursuant to the negotiated plea
22 agreement of a co-defendant. Further, Gonzalez' summary assertion that he is employed
23 in a position in which a lack of criminal background is significant does not suggest an
24 extraordinary circumstance warranting the sealing of his arrest record.

25 Accordingly, for good cause shown,
26

1 IT IS **ORDERED** that Rogelio Juan Gonzalez' Watson's Petition to Seal Records or
2 in the Alternative to Correct Identification Records (ECF No. 162) is DENIED.

3
4 DATED this 21 day of March, 2018.

5 
6 Lloyd D. George
7 United States District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26